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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,)	No. CR11-00043 PJH (LB)
)	
Plaintiff,)	
)	
v.)	PROPOSED ORDER DETAINING
)	DEFENDANT PENDING TRIAL AND
JUAN CARLOS FIGUEROA ALVAREZ,)	EXCLUDING TIME UNDER THE
)	SPEEDY TRIAL ACT
Defendant.)	

I. DETENTION ORDER

Defendant Juan Carlos Figueroa Alvarez is charged in a one-count indictment with being a Deported Alien Found in the United States, in violation of 8 U.S.C. §§ 1326(a) and (b). On January 28, 2011, the United States moved for the defendant's detention pursuant to 18 U.S.C. § 3142(f)(2)(A) (because there is a serious risk defendant will flee), and subsequently asked for a detention hearing pursuant to 18 U.S.C. § 3142(f). Following a hearing on February 3, 2011, under 18 U.S.C. § 3142(f), and considering the parties' proffer and the factors set forth in section 3142(g), the Court finds that no condition or combination of conditions in section 3142(c) will reasonably assure the defendant's appearance in this case. *See* 18 U.S.C. §§ 3142(e) and (f); *United States v. Motamedi*, 767 F.2d 1403, 1406 (9th Cir. 1985).

1 Specifically, the Court notes the defendant's criminal history, as documented in the
2 Pretrial Services report, his alleged immigration status, and the fact that the defendant is subject
3 to an Immigration and Customs Enforcement detainer hold. The Court, therefore, orders that the
4 defendant be detained pending trial.

5 The defendant did not request a full bail study at this time, such as an interview by
6 Pretrial Services, but reserved his right to present information at a future bail hearing should his
7 circumstances change. *See* 18 U.S.C. § 3142(f) (a defendant has the right at a section 3142(f)
8 hearing to, with the assistance of counsel, testify, present witnesses, cross-examine adverse
9 witnesses, and present information by proffer or otherwise).

10 II. SPEEDY TRIAL EXCLUSION

11 For the reasons stated in open court on February 3, 2011, the Court excluded time under
12 the Speedy Trial Act from February 3, 2011, to March 1, 2011, to enable defense counsel to
13 investigate the matter, including review of discovery. The Court found that (A) failure to grant
14 the continuance would unreasonably deny defense counsel the reasonable time necessary for
15 effective preparation, taking into account the exercise of due diligence, and (B) the ends of
16 justice served by the continuance outweigh the best interests of the public and the defendant in a
17 speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A) & (B)(iv).

18 III. CONCLUSION

19 The Court detains the defendant as a serious flight risk and because no condition, or
20 combination of conditions, could assure the defendant's appearance in this case, and orders that
21 time be excluded under the Speedy Trial Act as set forth above. Because the defendant waived
22 his right to present information under 18 U.S.C. § 3142(f) without prejudice to his raising any
23 relevant information at a later hearing, the Court orders that the hearing may be reopened at the
24 defendant's request at a future time.

25 The Court orders that the defendant be committed to the custody of the Attorney General
26 or a designated representative for confinement in a corrections facility separate, to the extent
27 practicable, from persons awaiting or serving sentences or held in custody pending appeal. *See*
28 18 U.S.C. § 3142(i)(2). The defendant must be afforded a reasonable opportunity to consult

1 privately with counsel. *See id.* § 3142(i)(3). On order of a court of the United States or on
2 request of an attorney for the United States, the person in charge of the corrections facility must
3 deliver the defendant to the United States Marshal for a court appearance. *See id.* § 3142(i)(4).

4 IT IS SO ORDERED.

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6 DATED: February 3, 2011

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9 LAUREL BEELER
10 United States Magistrate Judge
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